DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 0 0 — 0 2 2

2. STATE: Colorado

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: July 1, 2000

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
Social Security Act sec. 1902(a)(30)(A)
42 C.F.R. sec. 447.252(b)

7. FEDERAL BUDGET IMPACT:
a. FFY 1999-2000 $ 458,403
b. FFY 2000-2001 $1,813,611

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-D Page 3-4
5
20-23
20a
21, 21a
31

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Pages 3-5
5a
20-23
New
21
31
36 (deleted)

10. SUBJECT OF AMENDMENT:
Changes in Medicaid nursing facility reimbursement related to Colorado Senate Bill 00-128.

11. GOVERNOR'S REVIEW *(Check One)*:

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☒ OTHER, AS SPECIFIED:
As per Governor's letter dated 12/14/94.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: Richard C. Allen

14. TITLE: Director
Office of Medical Assistance

15. DATE SUBMITTED: Sept. 29, 2000

16. RETURN TO:
Colorado Department of
Health Care Policy & Financing
1575 Sherman Street
Denver, Colorado 80203-1714

ATTN: Deborah Collette

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: September 28, 2000

18. DATE APPROVED: May 30, 2001

2000 SEP 28 A 11:

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: July 1, 2000

20. SIGNATURE OF REGIONAL OFFICIAL: Spencer K. Ericson

21. TYPED NAME: ~~Dxxxxxxxxxxx~~ Spencer K. Ericson

22. TITLE: Acting Associate Regional Administrator

23. REMARKS:

POSTMARK: Handcarried

FORM HCFA-179 (07-92)

Instructions on Back

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

II. Computation of Rate - The per diem reimbursement rate for each nursing facility (excluding the state-owned and operated ICF's/MR, which are addressed in Section III of the "Methods" portion of this attachment) is calculated as of July 1 each year and at other times when the facility submits a MED-13 cost report form justifying a change. Each facility's reimbursement rate consists of three basic components: (1) health care services and food costs, (2) administration, property, and room and board costs, and (3) a fair rental allowance for land, buildings, and equipment. For the first two components, the facility is reimbursed for its (a) allowable, audited costs or (b) the reasonable cost of services (maximum allowable, average cost ceiling) for the facility's class, whichever is lower. The first two components may be increased by a fluctuating cost allowance (inflation adjustment), and the second component may be increased by an administrative incentive allowance. In addition, several items within the definition of health care services costs are subject to "case mix adjustment" when calculating the rates for class I and V facilities, in order to compensate for the relative acuity levels and care needs of the facilities' resident populations. Under case mix adjustment, a facility with sicker residents requiring greater care will receive higher reimbursement for its direct care nursing staff than a facility with healthier residents requiring less care. The average cost ceilings for the first two components are calculated each year on the basis of the most recent cost information submitted to the Department by all facilities in each class as of May 2. These cost ceilings are used to establish the maximum reimbursement allowable to individual facilities in each class during the following year, beginning July 1.

A. Health care services and food costs - Health care services costs are divided between those costs which are subject to case mix adjustment and those which are not. The former category is called "case-mix adjusted nursing costs" and includes compensation, salaries, bonuses, worker's compensation, employer-contributed taxes, and other employment benefits attributable to a nursing facility's direct care nursing staff. Examples of the second category (i.e., other health care services which are not case-mix adjusted) include certain non-prescription drugs, consultant fees, equipment purchases, rentals, and repairs, depreciation and interest on major health care equipment, and certain therapies and services. For class I, II, and IV nursing facilities, the maximum allowable reimbursement for health care services and food costs cannot exceed 125% of the weighted average actual costs reported by all facilities in each class. (Class V includes only a single nursing facility.)

Administration, property, and room and board costs - A partial list of "administration costs" includes such items as the salaries, payroll taxes, worker compensation payments, training, and other employee benefits of the administrator, clerical, janitorial, and plant staff; advertising, public relations, telephone, office supplies, and motor vehicle expenses unrelated to the medical transportation of facility residents. Examples of "property costs" are depreciation and rental costs of non-fixed equipment, property taxes and insurance, and interest on loans associated with property. Examples of "room and board" include laundry and linen, housekeeping, and plant operation and maintenance. For class I, II, and IV nursing facilities, the maximum allowable reimbursement for administration, property, and room and board costs cannot exceed 120% of the weighted average actual costs reported by all facilities in each class.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

LIMITATIONS ON GROWTH OF ALLOWABLE COSTS: With respect to all rates effective on or after July 1, 1997, for each class I and class V facility, any increase in allowable (i.e., reimbursed) administrative costs shall not exceed six percent (6%) per year and any increase in allowable health care services costs shall not exceed eight percent (8%) per year. The 8% limitation shall not apply to rates effective between July 1, 2000, and July 1, 2002. These limitations shall apply to the costs which are used in annually calculating the weighted average cost ceilings for all class I nursing facilities, and also to the costs which are allowed when calculating an individual rate change for a class I or V facility. However, after application of these limitations, the allowable costs for an individual facility may be increased through the payment of a fluctuating cost allowance and/or administrative cost incentive allowance, if in accordance with the methodology stated elsewhere in the state plan.

LIMITATION ON MEDICARE PART A COSTS: For all rates effective on or after July 1, 1997, the Department shall limit the Medicare Part A ancillary costs (hereafter referred to as "Part A costs") which are allowed in calculating the Medicaid per diem rate for each class I and class V nursing facility. For all rates effective on 7/1/97, the Department shall include whatever level of Part A costs the Department allowed from the most recent Medicare cost report submitted by the facility to the Department prior to July 1, 1997. This level of Part A costs shall be used as the base figure in limiting subsequent Part A cost increases. Any subsequent increase shall not exceed the increase over the corresponding time period in the Consumer Price Index ("medical care" component in the "U.S. City Average") published for all urban consumers (the "CPI-U") by the United States Department of Labor, Bureau of Labor Statistics.

LIMITATION ON MEDICARE PART B COSTS: For all rates effective on or after July 1, 1997, only those Medicare Part B costs which the Department determines to be reasonable shall be included in calculating the allowable per diem Medicaid reimbursement for class I and V nursing facilities.

D. 5. B. 4. Fair Rental Allowance Per Diem Rate: The fair rental allowance amount divided by the higher of audited patient days on the MED-13 or ninety percent (90%) of bed capacity on file with the Colorado Department of Health when the onsite portion of the appraisal was completed, except as other-wise provided in subparagraph 3 below:

(a) The patient days used in this calculation are from the MED-13 report which established the Medicaid rate for the other cost centers. As the rates change due to new MED-13 cost reports, so shall the fair rental allowance calculation due to the change in patient days.

(b) The higher of audited patient days or 90% of bed capacity regulation applies to both rural and urban facilities.

(c) Changes in licensed bed capacity, which in turn affects the 90% licensed bed capacity standard specified above will be recognized by the Department as follows:

(1) Reductions or increases in licensed bed capacity of a facility shall be recognized due to either physical (structural) and or use modification of the facility. (An example of a change in use is when a portion of the nursing home is converted to an alternative care facility.)

(2) Reductions in licensed bed capacity including physical modifications undertaken solely to avoid the financial impact of the 90% licensed bed capacity shall not be recognized.

(3) Recognized changes in licensed bed capacity (and its impact on the 90% licensed bed capacity standard) shall go into effect with rates driven by the cost report covering the period of the change in licensed bed day capacity.

D. 6. Implementation of the Fair Rental Allowance (FRA) for Capital Related Assets in State Fiscal Year 1990-91 and each year thereafter.

A. Except as otherwise indicated below, the FRA methodology for this time period shall be the same as that described in preceding section D.5. concerning calculation of the FRA beginning State Fiscal Year 1987-88.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

D. 6. B. Base value: Value of the capital related assets of a nursing facility is determined by the most current appraisal report completed by the Department's appraiser pursuant to the most recent RFP and any additional information used by the Department to establish the appraised value. This appraised value shall be increased or decreased by fifty percent (50%) of the change in the Means Index. Under no circumstances will the base value be greater than $25,000 per bed plus the percentage rate of change in the Index dollar cost per square foot for the average nursing home building type since State Fiscal Year 1985-1986.

C. Excess Land: Land shall be deemed excess and excluded from the property appraisal process under the following conditions:

1. Urban setting: Nursing homes in an urban area having any land or land-area in excess of 4,732 square feet per licensed bed shall be deemed excess.

2. Rural setting: Nursing homes in a rural area having any land or land-area in excess of 6,500 square feet per licensed bed shall be deemed excess.

D. "Appraised Value" – effective July 1, 1990, the appraised value means the determination by a qualified appraiser who is a member of an institute of real estate appraisers or its equivalent, of the depreciated cost of replacement of a capital-related asset to its current owner. The depreciated replacement appraisal shall be based on the most recent edition of the Boeckh Commercial Building Valuation System for Nursing Homes available on December 31st of the year preceding the year in which the appraisals are to be performed. This applies to all appraisals after 1998. For the 1998 appraisals, the Department will use the Boeckh program available on April 1, 1998, as described in state regulations at subsection 8.448.7, D, 3, b; 10 C.C.R.§2505-10.

E. Rental Rate: For all rates effective through June 30, 2000, means the average annualized rate for twenty-year treasury bonds issued by the United States for the preceding year. The 20 year treasury bond rate shall be based on the higher of the issue rate or the yield rate for the 20 year treasury bond. For all rates effective on or after July 1, 2000 rental rate means the annualized composite rate for treaury bonds issued and outstanding by the United States neither due nor callable in less than 10 years, plus 2 percent. Not to total less than 8.25 percent and limited to a maximum of 10.75 percent. The rental rate will be adjusted each year based on the over 10 year composite rate for the month of April as published by the Federal Reserve.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

D. 6. F. On or after July 1, 1990, and for all rates effective through June 30, 2000, if a vendor payment under the fair rental allowance system is less than the vendor payment in effect on June 30, 1985, and such decrease is wholly or partly the result of the payment of a fair rental allowance for capital-related assets, the following shall occur:

1. The contract auditor shall determine the difference between the July 1, 1986 property reimbursement and the June 30, 1985 property reimbursement. Included in the calculation of this difference shall be rates which were lowered due to changes in the incentive allowance of fluctuating costs allowance payments due solely to the fair rental allowance system of reimbursement.

2. In cases where the June 30, 1985 property reimbursement is higher than the August 1, 1987 property reimbursement, the provider's fair rental allowance shall be increased by fifty percent (50%) of the difference identified by the contract auditor.

   However, effective 8/1/93, this increase shall be eliminated if the vendor has constructed and occupied a new physical plant and is no longer using the old structure for providing care to nursing facility residents.

G. On and after August 1, 1990, and for all rates effective through June 30, 2000, if a vendor payment under the fair rental allowance system is greater than the vendor payment in effect on June 30, 1985, and such increase is wholly or partly the result of the payment of a fair rental allowance for capital-related assets, then that portion of the increase in the vendor payment attributable to the payment of a fair rental allowance for capital-related assets shall be reduced by fifty percent (50%). This fifty percent (50%) reduction shall not be applied to vendors whose current acquisition costs for the capital related assets of the facility are different (due to the sale of the facility) than the acquisition (historical) costs which determined the rate of reimbursement on June 30, 1985.

Effective August 1, 1993, the fifty percent (50%) reduction shall not be applied to a vendor that has constructed and occupied a new physical plant and is no longer using the old structure for providing care to nursing facility residents, even though there is an increase over June 30, 1985, caused wholly by the payment of a fair rental allowance for the capital-related asset.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

D. 6. H. The fair rental allowance shall only be adjusted due to the following:

1. The base value of a facility can be increased in subsequent cost reports due to improvements as specified in the definitions section.

2. Changes in MED-13 patient days when calculating the fair rental allowance per diem.

3. At the start of a new State Fiscal Year (July 1) by a new rental rate amount or additional indices.

4. The base value of a facility can be decreased by a change in either the physical structure) and/or use of the facility, i.e., the destruction of a portion of the facility would be an example of a physical change. An example of a change in use is when a portion of the nursing facility is converted to an alternative care facility.

5. (Effective August 1, 1993) The provider has constructed and occupied a new physical plant and is no longer using the old structure for providing care to nursing facility residents. Base value will be a new appraisal conducted by the state's contract appraiser at the time the new physical plant is ready for occupancy.

   a. The provider will continue to be reimbursed at the old fair rental allowance rate until the first scheduled MED-13 after the move sets a new rate.

   b. A new appraisal will be performed to coincide with the filing of the next scheduled cost report which will set a rate for the facility.

   c. The fair rental allowance reimbursement based on the new appraisal will not include a hold harmless or negative share amount.

D. 6. I. The fair rental allowance as established by these regulations shall not be changed during State Fiscal Year 1990-1991 by the following:

1. A fluctuating cost allowance.

2. By changes in ownership in cost reporting periods with rate effective dates on or after July 1, 1985.

3. Changes in the maximum reasonable cost ceilings for administrative, room and board and property and related incentive allowance payment.

J. All owned and leased facilities are reimbursed under the fair rental allowance reimbursement methodology with the exception of the state-administered class IV nursing facilities.

K. The fair rental allowance shall become the third component of the rate. The other components of the rate shall be:

1. Administrative, room and board and property (with the relevant amount of incentive allowance and fluctuating cost allowance); and

2. Health and raw food costs (with the relevant amount of fluctuating cost allowance).

Therefore, each nursing home is given three rates. The rate for administration, property and room and board is the sum of the audited allowable costs (or the maximum reasonable cost, whichever is lower), the fluctuating costs factor, and the incentive allowance, if any. The rate for health care services and raw food is the sum of the audited allowable costs (or the maximum reasonable cost, whichever is lower) and the fluctuating cost factor. The rate for land, buildings and fixed equipment is established by the fair rental allowance formula. This is illustrated below:

Audited allowable administrative, room and board and property cost per patient day up to the maximum reasonable cost:

\+ Fluctuating cost factor (excluding interest)
\+ Incentive allowance (if applicable)
= Rate for administration, room and board and property

PLUS

Audited allowable health care and raw food cost per patient day up to the maximum reasonable cost:

\+ Fluctuating cost factor
= Rate for health and raw food

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

III. State-Owned and Administered ICF/MR's - On and after July 1, 1988 State-owned and administered ICF/MR'S as stated in the beginning II above, are not reimbursed in accordance with the methods and standards described in Section II. The State-owned and administered ICF/MR's are reimbursed in accordance with the following methods and standards:

A. Cost Reports: The State-owned and administered ICF/MR,s continue to submit their cost reports on a 12 month basis based on their fiscal year end. These costs reports are subject to yearly audit in accordance with the Standards section of this manual.

B. Rate Effective Date: The rate effective date for these facilities shall be the first day of the period covered by the cost report. The rate on July 1, 1988 through June 30, 1989 (and every Julv 1 through June 30) shall be based on the actual audited cost of the various facilities for the cost reporting period of the same time (July 1 through June 30). In other words, the rate for July 1, 1988 and thereafter is a retrospectively established rate which covers the actual audited costs of these facilities. Under no circumstances are these facilities to receive rates of payment higher than their actual audited costs.

C. Interim Rates: These facilities are to receive an interim rate until the cost report for the effective period is received and finally audited by the State Department of Social Services. This interim rate is to be based on estimated costs to be incurred in the following cost reporting period. This information is supplied to the Department of Social Services by each State-administered ICF/MR. The Department of Social Services shall review this information and determine it is a reasonable estimate of actual costs to be incurred the following fiscal year of the facilities. This interim rate shall remain in effect from July 1 through June 30.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATE - NURSING FACILITY CARE

STANDARDS

I. Basis for Determining Allowable Costs

The State of Colorado has determined that establishment of the maximum reasonable cost based on the 85th percentile of licensed bed day capacity for health care and raw food costs, and the 85th percentile of licensed bed day capacity for administration, room and board and property costs, and a fair rental allowance payment for capital related assets set forth above for all classes of facilities except the State-administered ICF/MR's, is reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities. The imputed 85%-occupancy level is not applied to nursing facilities located in rural communities. With respect to all rates effective on or after July 1, 2000, for each Class I and Class V facility, health care services and food costs is determined using actual patient days for both urban and rural facilities. The State of Colorado has determined that establishment of a retrospective rate setting methodology for the State-administered ICF/MR's (as specified in Section II of the Methods part of the manual) is reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities. In the determination of rates for long-term care facility services, the State of Colorado references, in order of importance:

A. Federal and State Medicaid statutes and regulations.

B. Medicare statutes and regulations.

C. Medicaid and Medicare guidelines.

D. Generally accepted accounting principles (GAAP).

E. Specific standards not based upon the above include:

- Fair rental allowance for capital related asset costs. (Not applicable to the State-operated ICF/MR's.)

- Depreciation - only straight-line depreciation may be used. (Straight-line depreciation only applies to assets not covered by fair rental allowance.)

- Owner and owner-related employees - allowable salaries and fringe benefits are limited based on annual surveys.

- Return on equity - not allowable.